THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.1460 of 2007

Date:01.02.2007

Between

Gondeti Ramesh.

----------Petitioner

And

M/s. Sri Dhatri Mutually Aided Cooperative Credit Society and others.

----------Respondents

ORDER:

Petitioner assails the order, dated 23.06.2006 passed by the A.P. Cooperative Tribunal at Warangal in O.P.No.25 of 2006.

The first respondent-Mutually Aided Cooperative Society filed the O.P. against the petitioner, under Section 37(1)(b) of the A.P. Mutually Aided Cooperative Societies Act, 1995 (for short 'the Act'), for recovery of certain amount. Respondents 3, 4 and 5 herein were also made parties to the O.P. The Tribunal passed the *ex parte* award-cum-decree, on the ground that the petitioner and respondents 3 to 5 herein have remained *ex parte.*

Learned counsel for the petitioner submits that his client borrowed some amount from the

second respondent, in his individual capacity, and taking advantage of the fact that the second respondent is the President of the first respondent-Society, the provisions of the Act have been invoked and the O.P. was filed. He contends that even otherwise, the O.P. was not maintainable, in view of the proviso to Section 37 of the Act, which provides for reference to arbitration, before any O.P. is filed.

Learned Government Pleader for Cooperation, on the other hand, submits that if the petitioner feels aggrieved by the *ex parte* award-cum-decree passed by the Tribunal, he can pursue his remedies by filing an application to set aside the same.

The necessity for this Court to discuss the various contentions advanced on behalf of the petitioner would have arisen, if only they were canvassed before the Tribunal and were repelled. The Tribunal is constituted, with an object to resolve the disputes between the Societies and their Members or the Members *inter se*. The circumstances, under which the petitioner was set *ex arte,* are not before this Court. Even if the contention of the petitioner that he was not

served with any notice is true, he can certainly approach the Tribunal, by filing an application to set aside the *ex parte* award-cum-decree, narrating the relevant circumstances. The order passed by a specialized Tribunal cannot be ignored, nor be adjudicated in a Writ Petition, when disputed questions of fact exist.

Therefore, the Writ Petition is dismissed, leaving it open to the petitioner to approach the Tribunal, with an application to set aside the *ex parte* award-cum-decree. To protect the interests of the petitioner, it is directed that *status quo* obtaining as on today, shall be maintained for a period of two (2) weeks, to enable him to avail the remedy. If no application is filed within that time, the order of *status quo* shall cease to be operative.

01.02.2007

Note: Issue C.C. in two (2) days.

(B/o)

JSU